



**MINUTES**  
**BOARD OF ADJUSTMENT CITY OF MISSOURI CITY, TEXAS**

October 03, 2018

The Notice of Meeting and Agenda having been duly posted in accordance with legal requirements and a quorum being present, the meeting was called to order by Chairman Morris approximately 6:17 p.m.

**ATTENDEES:**

**Board Members Present:**

Roger Morris, Chairman  
Joe Workman  
J.R. Atkins (alternate)  
James Bailey

**Board Member Absent:**

Robin Elackatt, John Jobe, Adrian Matteucci (alternate), Sharon Jurica (alternate), Cleotha Aldridge (alternate)

**STAFF PRESENT:**

Otis Spriggs, Director of Development Services  
Jennifer Thomas, Planning Manager  
Thomas White, Planner II  
Mason Garcia, Planner I  
Jamilah Way, First Assistant City Attorney  
James Santangelo, Assistant City Attorney  
Egima Brown, Planning Technician

**Others Present:**

Nazir Khalife / Powers Brown Architecture

**READING OF MINUTES:**

Consider approval of the minutes of the June 27, 2018, Zoning Board of Adjustment meeting.

**Motion:** Approval of the June 27, 2018, meeting minutes.

**Made By:** Board Member Workman

**Second:** Board Member Baily

**AYES:** Chairman Morris, Board Member Baily, Board Member Workman, Board Member Atkins

**NAYS:** None

The motion passed.

**REPORTS:**

Development Services

a. Director

Otis Spriggs introduced Jamilah Way, First City Attorney.

**PUBLIC COMMENTS**

There were none.

**AGENDA ITEM FOR CONSIDERATION**

- A. To receive comments for or against a request by Nazir Khalfe, on behalf of HPC-Seefried BB, LLC to allow for a variance from Section 7A.4.A.3 of the City's zoning ordinance for a variance from Section 14-Fence Regulations of the City's zoning ordinance for the construction of a 10 ft. high perimeter chain-link fence, with 1 ft. high of barbed wire strands above. The subject site is located at 636 Hwy. 90A (Best Buy BTS), north of US Hwy. 90A east side of Cravens RD., west of Beltway 8.

Jennifer Gomez asked Chairman Morris if the Board would like to hear from the applicant or staff first.

Chairman Morris replied to have staff introduce item (A) without a recommendation.

Ms. Gomez presented the item. Ms. Gomez informed that as stated in the staff report, on or about July 23, 2018, the owner of the subject property applied for a fence permit for the fence, gates and barriers that had already been installed prior to the issuance of the permit, although the project was forwarded for review. On or about August 1, 2018, approval was granted by the Fire Marshall. On or about August 3, 2018, approval was granted by the Building Inspector. On or about August 24, 2018, the Planning Division issued a disapproval of the fence, subject to Section 14- Fence Regulations. Ms. Gomez informed that the regulations were outlined in the staff report.

Ms. Gomez informed that based on the height of the fence and the barbed wire proposed for the fence, the fence was disapproved. The applicant requested the variance based on the application being disapproved, from Section 14- Fence Regulations.

Nazir Khalfe, Powers Brown Architecture, informed that he lived in the City and was the responsible architect for the majority of the development in Lakeview Business Park, Park 8Ninety, FedEx, and Best Buy. Best Buy was the biggest development. Mr. Khalif informed that about three years ago, Best Buy was a RFB that went out to every part of the City, including Houston and the Woodlands. There were sixteen teams from Indianapolis, Dallas and every part of the country that were involved in the project. Missouri City, with Seefried Development, was the lucky place. Mr. Khalif informed that they worked with the Economic Development Department. The development was half a million square feet and all e-commerce. It is the largest e-commerce building in this part of town.

Mr. Khalfe informed the purpose of the facility was that everyone needs everything quicker. Based on the needs, Best Buy had standards based on their national insurance and requirements due to the high valued products inside the facility. Mr. Khalfe informed that part of those requirements were that they had to have a 10 ft. barbed wire fence. The details were provided in the drawings. Once again, the development was one of the largest e-commerce in America that wanted a 10 ft. fence. The fence was set back behind the railway lines and not on the streets. The fence can be seen from Cravens Rd. a little more.



On Hwy 90A, which was the overlay zone, the fence was set back behind the railway lines with shrubs in front of it. Mr. Khalfe informed that they decided to move forward with seeking a variance to have an additional 2 ft. of chain-link fencing. Best Buy had a high dollar inventory inside the facility. The fence was a standard fence that the development wanted based on who the insurance companies were.

Vice Chairman Workman informed that on the east side of the building, there was a berm that the fence was behind. Vice Chairman Workman asked Mr. Khalif if he knew what was going to be on the other side of the berm.

Mr. Khalfe informed that what was planned was more industrial development.

Vice Chairman Workman asked if the berm was going to be removed or remain.

Mr. Khalfe informed that the drainage ditch was probably going to be removed. There was a pipeline that was across the site. The developments will not have a fence at the moment in time. Best Buy was the only development that needed the fence variance. Mr. Khalif informed that if another development wanted a fence, they would submit a separate permit application with a separate process.

Chairman Morris asked Mr. Khalfe if the application for variance with respect only to the frontage on Hwy 90A, or to the Cravens Rd side as well.

Mr. Khalif informed that the variance was for the entire site.

Chairman Morris asked staff for their response.

Otis Spriggs informed that staff provided information in the staff report that eluded to other industrial properties in the area that were in I-Industrial, however, the height requirement for the barbed wire to be between 6 ft. to 8 ft. in height was not found to be logically placed in accordance with the zoning code. Staff will be seeking other options to dealing with the same situations from a zoning text perspective. Mr. Spriggs informed that the process would have to be vetted by upper administration and City Council in terms of a text amendment to the code. There were other industrial uses that went through a different process, such as the Planned Development District standards, which allowed for certain waivers or conditions within the ordinance of adoption. Mr. Spriggs informed that the present variance was unique from a functionality standpoint in terms of what was stated.

Chairman Morris asked staff if the standards in the PD, Planned Development District are different from the standards in the Industrial District.

Mr. Spriggs ask Chairman Morris for clarification of the question, "Are the standards in the PD, Planned Development District different."

Chairman Morris informed that he noticed the 8 ft. apparently in the PD, Planned Development District.

Mr. Spriggs informed that some PDs, Planned Development Districts, may have between 8 ft. and 10 ft., however, there were special conditions and circumstances. Some are block walls for residential screening requirements that were placed to separate the two uses. Mr. Spriggs informed that there were examples provided in the staff report.

Chairman Morris asked if the Industrial standards were in the ordinance.

Mr. Spriggs informed that the maximum height of any fence is 8 ft.

Chairman Morris asked if the PD, Planned Development District was variable.

Mr. Spriggs informed that it was variable depending on the particular PD, Planned Development ordinance, which is specific to that use.

Chairman Morris asked staff what would be the effect of rezoning the property from Industrial to PD, Planned Development.

Mr. Spriggs informed that it would be looked at from an advantage or disadvantage perspective. The current owners looked at the zoning to see what was permitted and allowed. The applicant did not coordinate the fencing issue unfortunately. Mr. Spriggs informed that the use was allowed and not in question.

Chairman Morris asked if it was only the fence height and the barbed wire.

Ms. Gomez replied, "Correct", It was the fence height, the use of the barbed wire at the height and the location of the fence in front of the property line with the barbed wire.

Mr. Spriggs informed that it also included the gate.

Chairman Morris asked if the fence was in front of the property line.

Ms. Gomez read a section of the ordinance that stated, "This is a request for a variance from Section 14.2, which requires that no fence will be constructed at a height exceeding 8 ft. Section 14.2.C.2.A, barbed wire shall be located behind the designated front building line. Section 14.2.C.2, barbed wire shall only be allowed at elevations between 6 ft. to 8 ft. and must be constructed of other material as wood fencing." Barbed wire would not be permitted to be on top of wood fencing. It would be permitted on top of chain-link fencing.

Chairman Morris stated that the fencing was in front of the property line and asked if that meant that the fence was off of the owner's property.

Ms. Gomez informed that it was the building line. The fencing in question is all on private property and the owner's property.

Chairman Morris informed that the Cravens Rd. frontage was different from Hwy 90A due to the depth of the Cravens Rd. to the fence. There is a large retention pond. Chairman Morris asked if it was necessary to treat the Cravens Rd. side the same as the Hwy 90A side.

Chairman Morris asked about the process of changing the ordinance and if it is presented to the Planning and Zoning Commission.

Ms. Gomez informed that the Zoning Text Amendment would go through the process of public hearings before the Planning and Zoning Commission and then a recommendation to City Council.

Chairman Morris asked if it was a 90 to 120 day process.

Mr. Spriggs informed that it could take a while.



Chairman Morris informed that a decision that is made on a variance does not set a precedence. Meaning, if a variance is granted, everyone should not assume that it would be the understanding.

Vice Chairman Workman followed with informing unless Council changes the ordinance.

Chairman Morris replied, "Right".

Board Member Bailey asked if the request was for a 10 ft. fence in addition to a 1 ft. barbed wire above based on the drawing and if the current standards were no higher than an 8 ft. fence with the barbed wire between 6 ft. and 8 ft.

Staff confirmed.

Chairman Morris asked if the applicant was required to comply with the ordinance as it is now, where would the applicant have to move the fence.

Mr. Spriggs informed that the fence height would have to be reduced.

Ms. Gomez informed that the applicant would have to remove the barbed wire on top and reduce the fence height. Without the barbed wire, the fence could be placed on the property lines. If the applicant wanted the barbed wire, it could not be placed in front of the front building line.

Jamilah Way informed that requirements were not addressed in the motion. The issue would need to be placed in the motion.

Chairman Morris informed that staff always recommends to follow the City code.

Vice Chairman Workman informed that in this case, staff recommended the approval of a variance.

Chairman Morris informed that if the Board wanted to approve the variance, it would take a positive vote from all four present Board Members. If one person said "no", the motion would fail.

Board Member Bailey asked Mr. Khalif if the 10 ft. fence was a loss reduction plan.

Mr. Khalif informed that it was a loss prevention structure.

Board Member Bailey asked if the fence was going to be more common with the type of business.

Mr. Khalif informed that it is common with the type of business.

Chairman Morris informed that the mention of the approval of the fence at the current line would be needed for the possible motion.

application of Nazir Khalfe, Powers Brown Architects, grant the fence variance requests of this applicant to allow a 10 foot high fence and 1 foot high barbed wire strands and allow the fence on the build line because our evaluation of the property and the testimony shows that the variances are not contrary to the public interest, owing to special conditions of the physical property a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, which was not self-imposed or economic in nature, and the spirit of the ordinance is observed and substantial justice is done.

**Made by:** Board Member Bailey  
**Seconded:** Board Member Workman

**AYES:** Chairman Morris, Vice Chairman Workman, Board Member Bailey, Board Member Atkins

**NAYS:** None

The motion passed.

**ADJOURNMENT**



Egima Edwards  
Planning Technician